

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

x- - - - - - - - - - - - - - - x
UNITED CENTRAL BANK, . Case No. 10-CV-00331
Plaintiff, . Chicago, Illinois
·
-vs- . November 3, 2011
·
KANAN FASHIONS, et al .
·
Defendants. .
·
x- - - - - - - - - - - - - - - x

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE MICHAEL T. MASON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

| | |
|---|---|
| For Plaintiffs | BOODELL & DOMANSKIS, LLC BY: Vilia Dedinas, Esq. Andrew Abrams, Esq. 205 N. Michigan Ave., Suite 4307 Chicago, IL 60601 |
| For Defendants Kanan Fashions, et al | MCJESSY CHING & THOMPSON, LLC BY: Kevin McJessy, Esq. 3759 N Ravenswood, Suite 231 Chicago, IL 60613 |
| For Plaintiff American Charter | MELTZER PURTILL & STELLE, LLC BY: Steven Rogovin, Esq. 300 South Wacker Dr., Suite 3500 Chicago, IL 60606 |

ECRO Operator:

Proceedings recorded by electronic sound recording, transcript
produced by transcription service.

TERRY GRIBBEN'S TRANSCRIPTION SERVICE
27 Beach Road, Unit 4
Monmouth Beach, NJ 07750
800 603-6212
(732) 263-0044 Fax No. 732-263-0075
www.tgribbentranscription.com

A D D I T I O N A L A P P E A R A N C E S:

For Bank of America
America

LAMDA LEGAL
BY: Timothy Carraher, Esq.
11 East Adams, Suite 1008
Chicago, IL 60603

For United Central Bank
11-2603

THOMAS FOX, ESQ.

Colloquy

3

1 THE CLERK: 10-C-331 United Central Bank versus Kanan
2 Fashions, 10-C-6405, United Central Bank versus Ramoni
3 Incorporated.

4 MS. DEDINAS: Good morning Your Honor Vilia Dedinas
5 and Andrew Abrams on behalf of United Central Bank.

6 THE COURT: Good morning.

7 MR. ROGOVIN: Steve Rogovin on behalf of America
8 Charter in the 10-C-6405.

9 THE COURT: Okay.

10 MR. MCJESSY: Good morning Your Honor, Kevin McJessy
11 on behalf of the Kanan defendants, Varsha Shah, Mehul Shah.

12 MR. CARRAHER: Tim Carragher on behalf of Bank of
13 America as defendants 10-C-6405

14 MR. FOX: Good morning Your Honor, Thomas Fox on
15 behalf of the United Central Bank as plaintiff in case 11-2603.

16 THE COURT: Okay, good morning everybody. Let me go
17 through a series of questions that I have that will pertain to
18 the two of you mostly I think, but anybody can answer. You
19 were directed to meet and confer regarding UCB's motion to
20 compel outstanding discovery and the defendants were to produce
21 responses by October 31st. Did this happen?

22 MR. MCJESSY: Yes, it did Your Honor. We had
23 produced I think the responses even before the last hearing on
24 the outstanding, on the two outstanding discovery submissions.
25 I think it was before the last hearing, I could be wrong, maybe

Colloquy

4

1 it was right after, regarding the discovery that had not been
2 answered at all.

3 We met and conferred, the other element of their
4 motion was a number of discovery requests that they had sent a
5 37:2 letter on saying we want responses to these requests.

6 I called Ms. Dedinas as to the document request that
7 they were taking issue with. We talked about it a couple of
8 times actually between then and now. I agreed with her
9 position and most of those document requests were appropriate
10 and should have been responded to. And we will do that to the
11 extent we haven't already. My client believed that many of
12 those documents have already been produced. There may be an
13 issue about that, but if they haven't been, we will.

14 There was one interrogatory that was part of that
15 series of requests as well. That I believe is more
16 appropriately answered by referring to the documents that were
17 being produced. It was one of those questions, I don't
18 remember it specifically, but it was identify every transaction
19 or something like that. And we're already producing the
20 documents that were sort of responsive to that interrogatory.
21 So I don't, it would be a very laborious interrogatory to
22 respond to. I don't think it's appropriate as an
23 interrogatory, but the document request which, I think there
24 was one interrogatory and six document requests. I thought the
25 document requests were actually objections that the prior

Colloquy

5

1 counsel had made were probably not appropriate and they should
2 be responded to.

3 THE COURT: Do you have anything you want to add?

4 MS. DEDINAS: Just that we have not received the
5 documents yet, so I think that we still need some time to --

6 THE COURT: So, do you want to enter and continue the
7 motion to compel?

8 MS. DEDINAS: Yes.

9 THE COURT: As opposed to withdrawing it?

10 MS. DEDINAS: Yes.

11 THE COURT: All right. Then defendants were to make
12 the Great Plains database available to UCB by, you've got
13 another four days, I guess, November 7th. Will this happen?

14 MS. DEDINAS: Well, I'm assuming. We have an
15 appointment and we have, they have an IT guy. And our IT guy
16 has spoken to his IT guy.

17 THE COURT: I have questions about the IT guys too.

18 MS. DEDINAS: So they apparently understand what
19 they're going to be doing and there will be some sort of
20 meeting on the 7th.

21 THE COURT: And if there is going to, if there is a
22 dispute between the IT people, then I think you need to bring
23 them in if you motion anything to compel, like you did in the
24 past. And Mr. McJessy you weren't involved in that before and
25 you can thank your lucky stars for that. But anyway.

Colloquy

6

1 MR. McJESSY: Yeah, and I did get, just to follow up
2 on that point Judge, I did get notice from our expert who said
3 he's spoken to their ESI consultants and the parties, it
4 sounded like they had worked out between themselves the method
5 for doing what they needed to do.

6 THE COURT: Okay. As long as they're happy. That's
7 the main thing I guess. And then defendants were to contact
8 Digital Wreath (phonetic) and report to UCB regarding status of
9 back up tapes from the defunct server by October 31st. Did
10 that happen?

11 MR. McJESSY: We did try to contact Digital Wreath.
12 We did not get a response. I issued a subpoena to Digital
13 Wreath to produce the tapes on Tuesday.

14 THE COURT: Tuesday.

15 MR. McJESSY: I issued it on Tuesday.

16 THE COURT: Okay, two days ago.

17 MR. McJESSY: So that's, I can't make them call me.

18 THE COURT: No, I know you can't.

19 MR. McJESSY: So that's where that's at.

20 THE COURT: Okay. And then what's the status of the
21 third related case that's pending before Judge Darrah.

22 MR. FOX: Your Honor, I can speak to that.

23 THE COURT: Go ahead.

24 MR. FOX: We actually have a motion for reassignment
25 ready to go. We have not filed yet, but I plan on filing it

Colloquy

7

1 today.

2 THE COURT: Today?

3 MR. FOX: Yes.

4 THE COURT: Okay. And there's different counsel
5 representing UCB in that one?

6 MS. DEDINAS: We have a conflict.

7 THE COURT: Okay. And who is that?

8 MR. FOX: I am.

9 THE COURT: You are?

10 MR. FOX: Yes.

11 THE COURT: Okay, I'm sorry. All right, so that's
12 going to be done today. And then we've got UCB's motion to
13 compel request to admit, that's fully briefed and we'll rule on
14 that shortly by mail. Also the issue of which defendants are
15 to be sanctioned will be ruled on shortly by mail.

16 Now just, discovery cut off dates. You've indicated
17 that you need additional time to determine the scope of ESI and
18 yet you submitted an ESI agreement on October 28th. Are you
19 saying that you need more time to add to this ESI agreement or
20 this is it?

21 MS. DEDINAS: The agreement that we have is accurate
22 as of right now. In terms of actually knowing what the
23 proposed discovery schedule would look like, I think that we're
24 not prepared to do that because it's going to depend on how
25 much ESI there is. So we really need to get back to looking at

Colloquy

8

1 what each side really wants, what custodians we really want and
2 what key searches we really want.

3 The way we've done it at least prior counsel was they
4 gave us their custodian list and their search terms and we ran
5 those searches as against a limited of custodians and came up
6 with a hit list.

7 THE COURT: Okay.

8 MS. DEDINAS: And the hit list was fairly large. So
9 we had been in the process of renegotiating that. The problem
10 that we have is that we can only run these searches on
11 custodian ESI once we load the custodian ESI onto our system.
12 The process of loading is fairly expensive. So we really want
13 to make sure that we are dealing with the right custodians.

14 THE COURT: And how do you do that?

15 MS. DEDINAS: Well I think they have to, we want the
16 defendants to take another look at their initial custodian list
17 and see if they can pare that down based on what they really
18 think is going to be relevant.

19 One of the issues before was this question of whether
20 Mutual Bank did anything wrong in refusing to renew the loan.
21 That issue is off the table now. So that may change a lot of
22 the ESI that was, that they were seeking.

23 So I don't know, I think that we need to come up
24 first with a better custodian list before we can do hits. And
25 then when we know how many hits there are going to be, if it's

Colloquy

9

1 going to be too much, maybe we need to modify that so that we
2 get down to a universe of reasonable amounts. I mean we were
3 looking at a tremendous amount of ESI before.

4 So I really have just no idea whether it's going to
5 take us, you know, six months or 3 years, I hope not, to go
6 through the kind of ESI --

7 THE COURT: It's going to take a long time for sure.

8 MS. DEDINAS: Right.

9 THE COURT: It looks like it.

10 MS. DEDINAS: And I think they're in a little bit of
11 a different situation. I don't know, but I think, I don't know
12 whether you have to load it onto a platform for it to be
13 searchable and whether that's going to have any expense or not.

14 MR. McJESSY: I actually believe Judge from talking
15 to our expert that all of the data should be loaded and
16 searchable within a very short time for us. And by that I mean
17 probably within a month. And the, I also, it's my
18 understanding and I need to get better clarification of this,
19 but if you recall there was a server that had some problems, it
20 was defunct.

21 THE COURT: Right.

22 MR. McJESSY: And that was the reason I think these
23 back up tapes were sent out. I believe from speaking to, from
24 the communication, I haven't actually spoke to my expert yet,
25 but I received a communication. It's my understanding that

Colloquy

10

1 they were actually able to image some of those drives that were
2 previously believed to be not working.

3 Now, they couldn't, my understanding is they couldn't
4 do all of them. I do need to confirm all of this. I want to
5 make sure that's clear on the record. But it does appear that
6 he was more effective than the prior ESI individuals that have
7 been engaged in getting that done.

8 So I don't know if all of the back up tapes that are
9 with Digital Wreath are still relevant, you know. If the
10 drives are actually able to be imaged, then I'm presuming that
11 that means that they can also be, data can be compiled and
12 searched.

13 But I'll have a better, I mean this guy only started
14 last week and he's made leaps and bounds of progress in getting
15 this done. All of the computers and data bases that are
16 working have been imaged and even part of the one that, my
17 understanding is part of the one that previously had a problem,
18 has been imaged.

19 THE COURT: So you have a different expert?

20 MR. McJESSY: We brought in somebody different than
21 all of the prior people that were --

22 THE COURT: And you know who that is?

23 MS. DEDINAS: Yes.

24 THE COURT: Okay.

25 MR. McJESSY: So, yeah, he's been in direct

Colloquy

11

1 communication with her person. I'm not quite sure what counsel
2 means. Counsel mentioned that the issue is off the table about
3 Mutual Bank not renewing the loan. I'm not quite sure what
4 that is. I heard that comment by her.

5 THE COURT: I heard that also.

6 MR. McJESSY: Yeah. I'm not quite sure what she
7 meant by that, but I was --

8 THE COURT: We'll give her a chance --

9 MR. McJESSY: We did agree that the basic tenor of
10 what she was saying is that we agreed to relook at the
11 custodian list that had been previously provided by counsel.
12 And I did agree to do that. That doesn't mean we'll agree to
13 pull anybody off of that list necessarily. Prior counsel
14 thought those were the relevant custodians and I certainly want
15 to, that may have been appropriate decision and that may be
16 right. But I did agree with counsel to take a look at that.

17 My understanding is that they've loaded data from
18 five custodians into their data based or something about that.
19 And I don't remember what the number of custodians was that was
20 provided.

21 MS. DEDINES: Like 14.

22 MR. McJESSY: So I told her that I would take a look
23 at that and see if there's some that should come off of that,
24 that we would agree should come off of that list. But I don't
25 want that, I don't want to misrepresent that we've agreed to

Colloquy

12

1 remove anybody from the list at this point.

2 THE COURT: But you think you're going to have
3 everything done by 30, within 30 days?

4 MR. McJESSY: From my, on my side?

5 THE COURT: Yes.

6 MR. McJESSY: Yes, I believe that's probably about
7 right. It's going to depend on, of all of the materials we
8 have, yes.

9 THE COURT: Okay.

10 MR. McJESSY: The issue is going to be whether we
11 need to, whether we're able to get these tapes from Digital
12 Wreath. I assumed that their subpoena, they'll have to respond
13 but we may end up in front of Your Honor on a motion on that.

14 And if we get those tapes back, then those, my
15 understanding is it takes longer to image the, to essentially
16 the tapes. I'm not quite sure how you image a tape, but to do
17 the same process of imaging the hard drive.

18 THE COURT: You don't know how to do it?

19 MR. McJESSY: That's why I've got somebody else doing
20 this because I know very little about it. But my understanding
21 is it takes considerably longer to get the data off the tapes
22 and into the kind of data base that they need so they can
23 search it. That can take, I don't know, just depends on when
24 we get the tapes. But pretty much everything is together.

25 One other issue that I'm not sure that was addressed

Colloquy

13

1 is there were a number of computers, Your Honor recalls --

2 THE COURT: That were left out there.

3 MR. McJESSY: That were left at the warehouse. We
4 had quite some time ago brought those computers and put them
5 with --

6 THE COURT: How many were there?

7 MR. McJESSY: Gosh, 20.

8 MS. DEDINAS: Twenty.

9 THE COURT: Really?

10 MR. McJESSY: About that or must be pretty close.

11 THE COURT: Yes.

12 MR. McJESSY: They were put at Elijah Technologies
13 (phonetic) is a computers forensics firm here in town that I
14 know some courts have used as a Court designated experts. They
15 were -- all we did was gather them, put them in a room at
16 Elijah and made them available to the United Central Bank. I
17 don't know if they've looked at them yet, but they don't have
18 to contact us to go look at them. I gave them the name of
19 Elijah Technologies, said here you go, you want them, whatever
20 you want to do.

21 But I don't want to maintain those computers forever.

22 There's an expense to maintaining them there.

23 THE COURT: Sure. When did you make them available?

24 MS. DEDINAS: This summer.

25 MR. McJESSY: June.

Colloquy

14

1 THE COURT: And have you looked at them yet? Have
2 you had your expert?

3 MS. DEDINAS: Yeah, our expert went out. And I
4 understand that some of the more, there's definitely a list of
5 them and I think there, some of them were imaged. I don't know
6 that all of them were.

7 And I don't have a problem with you taking them away
8 from Elijah. I just, I guess my concern is if you're asking us
9 can you now destroy them, I'm not sure I'm going to agree to
10 that because I think --

11 THE COURT: That I understand. Don't destroy them.

12 MR. MCJESSY: Yeah, I don't want to destroy them. I
13 just don't want to have to pay Elijah to maintain them.

14 THE COURT: No, I understand.

15 MR. MCJESSY: And if they get dropped or something
16 happens to them while they're in my client's possession, God
17 forbid, I want it to be clear that everybody had a chance to
18 look at these computers before we took possession back.

19 THE COURT: Why don't you talk to your expert, make
20 sure they've done everything they want to do and then notify
21 Mr. McJessy and, so he won't have to continue paying on that.

22 MS. DEDINAS: Yeah, I have an email in to verify
23 that.

24 THE COURT: Okay. And do you have your same expert
25 or do you have a different expert?

Colloquy

15

1 MS. DEDINAS: Yes.

2 THE COURT: Okay. So you have somebody who's been
3 with you from the get go on this, which is fortunate. And you
4 have a new person which I think is very fortunate also.

5 MR. McJESSY: It is actually somebody who had a brief
6 involvement in the case back on --

7 THE COURT: Who's that?

8 MR. McJESSY: Pardon?

9 THE COURT: Who is that?

10 MR. McJESSY: It's Christopher Sitter.

11 THE COURT: Okay.

12 MR. McJESSY: S I T T E R. He had come in only
13 briefly and only informally when the parties had a hard time
14 finding where the Great Plain's data base was. The prior
15 experts couldn't find the data base on the server and so he
16 came in. He was able to locate it and make a back up copy
17 quite some time ago, last year I think, in order to make sure
18 that nothing happened to it.

19 And then, that was all he did. But he was very good
20 and so obviously he's been very effective in the last week or
21 two.

22 THE COURT: And then the missing server has never
23 shown up I take it.

24 MR. McJESSY: No.

25 MS. DEDINAS: Not until they dredge the river.

Colloquy

16

1 THE COURT: Which one?

2 MR. MCJESSY: Your Honor I would object to that.

3 That's a little, with all due respect to counsel.

4 THE COURT: That will be stricken, that will be
5 stricken.

6 MS. DEDINAS: Withdrawn, my apologies.

7 THE COURT: All right. Then, let's see, the motions
8 for letter of request for discovery in Hong Kong, the proposed
9 order is fine.

10 MR. FOX: Judge, excuse me Your Honor. I teed that
11 up for November 9th.

12 THE COURT: Okay.

13 MR. FOX: Fancy Company, Fancy Creations Company
14 Limited, to default, but nevertheless sent a copy to Hong Kong,
15 Tokyo, Federal Express, overnight fastest delivery possible and
16 then I put it on for November 9th.

17 MR. MCJESSY: Judge, if I may with respect to the
18 order, I did have a couple of, a couple of comments on that.
19 And I wondered if it wouldn't be possible, there were a couple
20 of things in the order that I did, I don't want the order to
21 purport to make findings or to make rulings of law or anything
22 of the sort. So there were a few things in the order that I
23 did object to.

24 And I also, since this is sort of akin to a basically
25 a subpoena, I also wanted to have the opportunity rather than

Colloquy

17

1 issue a similar request if this is going to go out, to add
2 additional documents on to the end of this that they could
3 produce.

4 Right now the only records I can think of are records
5 for any loan documents or loan agreements between Creative, or
6 Fancy Creations and any of the parties involved. Because, I
7 don't think the Bank would have them but they're also asking
8 for corporate records and things like that. And I'm not sure
9 that loan documents fell within the scope of their request.
10 And it seems to me that would be pertinent and they would
11 probably want those too.

12 MR. FOX: I don't have an objection to adding loan
13 agreements. In terms of the, there was a prefatory section of
14 the order, I was trying to capture that the prime means of this
15 evidence, it was relevant. That the Hong Kong Court, that it's
16 needed here. That was the spirit of my research that I was
17 trying to capture. So I did add a footnote --

18 THE COURT: Why don't you have a, why don't you have
19 a meet and confer on this. And I'll give you --

20 MR. McJESSY: I'm sure we can work it out. My
21 objections are very minor on the language of it, but there were
22 a few things that went a little far. But I understand why
23 counsel put it in there. That's fine. We can talk and I'm
24 sure we can work it out.

25 MR. FOX: Okay, so we're back to --

Colloquy

18

1 THE COURT: I'll give you a week to try to do that,
2 okay?

3 MR. FOX: Can we do it before that? Just so --

4 THE COURT: Sure, you can do it much sooner. You can
5 do it --

6 UNIDENTIFIED: I just, Your Honor because it's noticed
7 for November 9th, I'd like it to be no later than -- if we
8 could work it out by the 8th.

9 MR. McJESSY: Well I'm available today so I think
10 that we could probably talk after the hearing this morning when
11 we get back to our offices and just get it done.

12 UNIDENTIFIED: Okay.

13 THE COURT: Okay.

14 UNIDENTIFIED: And if we don't get it done, we'll tell
15 you.

16 MR. McJESSY: It's a 10 minute conversation. It's not
17 --

18 UNIDENTIFIED: I know, okay.

19 THE COURT: All right.

20 UNIDENTIFIED: Thank you.

21 THE COURT: And then Judge Feinerman, he stayed
22 briefing on the motion for summary judgment after he granted
23 the motion to reassign the case, is that correct?

24 MS. DEDINAS: Yes, Your Honor. We took some limited
25 discovery with respect to that motion. And there's a court

Colloquy

19

1 reporter who apparently it takes a really long time to prepare
2 the transcripts. We've been waiting like eight weeks already.

3 The first transcript took about six weeks and we
4 haven't gotten the other one. So we, because it was taking so
5 long, we asked Judge Feinerman to stay it until we get the
6 deposition transcript. And we've been following up with her
7 regularly.

8 THE COURT: Is that his regular court reporter?

9 MR. MCJESSY: No, it's one I've used in the past. I
10 apologize. I mean, it's not my fault, but I still apologize.

11 THE COURT: Yes it is, Mr. McJessy. Don't use her
12 again.

13 MR. MCJESSY: Yeah, obviously.

14 THE COURT: Your next status is before Judge
15 Feinerman on November 30th. And he's going to set a new
16 briefing schedule, assuming you get the transcripts I suppose,
17 by then.

18 All right, now what about times for discovery? You
19 want to set those today and do you want to wait and see what
20 happens with the things that you're going to provide?

21 MR. MCJESSY: I think it might make sense to wait to
22 set the discovery dates at this point. At least get us a
23 better sense of, I can get back to them on the custodian list
24 and they can and I'll have an idea from my expert within,
25 hopefully within a couple of weeks exactly where we stand.

Colloquy

20

1 It would be also nice to know if we're going to get
2 those tapes from Digital Wreath and how quickly.

3 THE COURT: Yes.

4 MR. MCJESSY: I mean if they just produce them, then
5 that's fine. I don't think there's any fee dispute with my
6 clients. There may be a fee dispute with Bailey Borlack
7 however.

8 I'm not aware of any agreements between my clients
9 and Digital Wreath. So that's where I suspect the sticking
10 factor may be. But I didn't know what else to do, so.

11 MS. DEDINAS: So I just want to clarify, you think in
12 30 days we can agree on custodians and search terms? And have
13 hit lists and have a universe of ESI?

14 THE COURT: Type of drive, size of drive, whether the
15 drive contains the necessary software and that sort of stuff.

16 MR. FOX: We had, actually I think the experts have
17 the Great Plains data base from the email I got. I think
18 they've worked out an agreeable way and again, don't, work that
19 out, but I think they worked out an agreeable way to actually
20 put the data in useable format so that it may not be an issue
21 about accessing software, that kind of thing.

22 We had talked about having all of the ESI essentially
23 done by the end of the year. I think that's reasonable. Can
24 we do the hit list, custodians and all that by the end of the
25 month, I think that might be tough. I just, I have a trial as

Colloquy

21

1 Your Honor knows starting on Monday for two weeks, so that's --

2 THE COURT: Where?

3 MR. FOX: Judge Schenkier.

4 THE COURT: Okay. So when do you want to come back
5 for a status? And then we'll set a date at that time.

6 MR. McJESSY: I would think it would make sense to
7 come back after a status in front of Judge Feinerman, so maybe
8 early December.

9 THE COURT: Well, here's what you can do. Why don't
10 you stop by here, chambers, after -- what time is your status
11 with Judge Feinerman? Do you know?

12 MS. DEDINAS: I think 9:00 a.m.

13 MR. McJESSY: Yeah, I was going to say 8:30.

14 THE COURT: Stop by here afterwards. Let us know
15 what happened. We won't put it on the record.

16 MR. McJESSY: Okay.

17 THE COURT: And then we'll set a date after that
18 time. How's that?

19 MS. DEDINAS: That's good.

20 THE COURT: Does anybody else have anything they want
21 to say?

22 UNIDENTIFIED: I really have nothing to add at this
23 time Your Honor, I think we are in agreement.

24 THE COURT: One second. That's a good question.

25 Regarding this subpoena to Hong Kong, do you still want to come

Colloquy

22

1 in on that motion on the 9th?

2 UNIDENTIFIED: This is what I did, a notice of motion
3 for presentment to November 9th.

4 THE COURT: Yes.

5 UNIDENTIFIED: All parties have reserved except for
6 one before the Court. The one party that's not here is Fancy
7 Creations Company, Ltd., which was found in default in August.
8 I mailed a copy of the request to Hong Kong on Monday, Tuesday
9 actually, so.

10 THE COURT: Using regular mail?

11 UNIDENTIFIED: I used air, Federal Express
12 International --

13 THE COURT: Okay.

14 UNIDENTIFIED: So, now, I guess theoretically they
15 were noticed for a hearing to appear here in November. So
16 that, the Court -- I don't want to foreclose someone, I mean
17 there's a possibility, I think very, very, very, very, very
18 slim, someone from from Fancy Creations will show up here in
19 November 9th.

20 THE COURT: Are they, who's their local counsel?

21 UNIDENTIFIED: They've defaulted. Never appeared.

22 THE COURT: Nothing?

23 UNIDENTIFIED: Service of process.

24 THE COURT: All right. We'll let it up, thank you.

25 UNIDENTIFIED: But if I work out language with

Colloquy

23

1 counsel in advance, I'm happy to present it. I'm actually here
2 for another matter before you November 9th, so.

3 THE COURT: I look forward to seeing you.

4 UNIDENTIFIED: But I'm happy to excuse other counsel.

5 THE COURT: That's fine, that's fine.

6 UNIDENTIFIED: Okay.

7 MR. FOX: Well again, I'm on trial, so I'm not sure
8 -- but somebody will be here if they need to be. But I, like I
9 said, it's a small issue. I'm sure we can work it out.

10 THE COURT: Work it out, if you can. Anything else
11 anybody wants to? So we'll wait to hear from you after the
12 status before Judge Feinerman on November 30th and we'll set a
13 status shortly after that to set dates hopefully.

14 Okay and by November 30th you should have a pretty
15 good idea where you are, okay.

16 UNIDENTIFIED: One minor housekeeping matter.

17 THE COURT: Sure.

18 UNIDENTIFIED: The Judge not only had set some dates.
19 And they've never been formally stricken from the docket. I
20 think the spirit of the last status was the discovery cut offs
21 in the Judge Kennelly matter are kind of wiped out based on, I
22 wasn't here at the last status, so the spirit of the status and
23 some of the --

24 MR. FOX: That's correct. You said you would make
25 the dates parallel once we set dates here.

1 THE COURT: I did. So we'll strike those prior dates
2 that were set by Judge Kennelly without objection from anybody.

3 UNIDENTIFIED: Thank you.

4 THE COURT: Thank you.

5 MR. MCJESSY: Thank you Your Honor.

6 THE COURT: Good luck.

7 || * * * * *

C E R T I F I C A T I O N

10 I, **TRACY GRIBBEN**, court approved transcriber,
11 certify that the foregoing is a correct transcript from the
12 official electronic sound recording of the proceedings in the
13 above-entitled matter.

14

15

16

/S/ TRACY GRIBBEN

17

18

TERRY GRIBBEN'S TRANSCRIPTION SERVICE DATE: November 30, 2011

18

19

20

21

22

23

24